

ASSEMBLY BILL

No. 1978

Introduced by Assembly Member Harkey

February 17, 2010

An act to amend Section 8578 of the Water Code, relating to flood protection.

LEGISLATIVE COUNSEL'S DIGEST

AB 1978, as introduced, Harkey. Central Valley Flood Protection Board: ex parte communications.

Existing law establishes the Sacramento and San Joaquin Drainage District under the administration of the Central Valley Flood Protection Board for the purposes of carrying out specified flood management activities within the boundaries of the district. Existing law requires the board, in any evidentiary hearing, to consider various matters, including the effects of a proposed action on the State Plan of Flood Control, as defined. Existing law prohibits a board member or any person or organization with an interest in board decisions, or any person representing a person or organization with an interest in board decisions who intends to influence the decision of a board member on a matter before the board, from conducting an ex parte communication, as defined.

This bill would make technical, nonsubstantive changes to this prohibition.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 8578 of the Water Code is amended to read:

8578. (a) For the purposes of this section, “ex parte communication” means ~~any~~ *an* oral or written communication outside of a noticed board meeting concerning matters, other than purely procedural matters, regarding any of the following:

(1) An application that has been submitted to the board and has been determined to be complete by the executive officer.

(2) An enforcement action.

(3) Any other quasi-judicial matter requiring board action, after the matter has been placed on the board’s agenda and notice of the meeting has been provided pursuant to Section 11125 of the Government Code.

(b) (1) A board member appointed pursuant to subdivision (b) of Section 8551 shall not participate in an ex parte communication with ~~any~~ *a* person or organization with an interest in board decisions, nor ~~any~~ *a* person representing a person or organization with an interest in board decisions, excluding a staff member of the board acting in his or her official capacity, who intends to influence the decision of a board member on a matter before the board.

(2) If an ex parte communication occurs, the board member shall notify the interested party that a full disclosure of the ex parte communication shall be entered in the board’s record.

(3) Communications cease to be ex parte communications when the board member or the person who engaged in the communication with the board member fully discloses the communication and requests in writing that it be placed in the ~~board’s~~ official record of the *board’s* proceeding.

(c) Notwithstanding Section 11425.10 of the Government Code, the ex parte communications provisions of the Administrative Procedure Act (Article 7 (commencing with Section 11430.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code) do not apply to proceedings of the board to which this section applies.

O